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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,657	01/15/2004	Ronny C. Crawford	43751-P001US	5878

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EXAMINER

DRODGE, JOSEPH W

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,657	Applicant(s) CRAWFORD ET AL.	
	Examiner Joseph W. Drodge	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0204</u> . | 6) <input type="checkbox"/> Other: ____. |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,2,4,6-8,10,12,13,14,15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen patent 5,679,258 in view of Rudder patent 5,173,092.

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With respect to independent claims 1,7 and 13, Petersen discloses a system for separating oil products from water and groundwater comprising numerous hoses and other forms of conduits (column 1, lines 59-61, etc., a vacuum supply 51 (column 9, lines 61-64 and column 10, lines 14-31), the vacuum stated as applied to and effecting flow of the mixture from sources towards the tank through conduits/hoses (column 15, line 46-column 16, line 8), 1st tank 11 for holding received fluid mixture and having a plurality of means for separating mixture into product and water, especially gravity/phase separation, flow switches in the 1st tank that control fluid flow (column 7, lines 33-35 in combination with column 15, lines 55-59) and , including a heavy phase discharge pump 38 connected to pipe elbow 26B and conduit 19 in the bottom of the tank, and further product holding and storage tanks (column 22, lines 38-54) that may be located sequentially [as in claims 2,8 and 14].

The claims firstly differ in requiring the mixture to be obtained from a well that recovers product and water, although Petersen does disclose use of his system proximate leaking oil storage tanks, around refineries and to purify ground water, and discharge of water or oil for well injection and process reuse (last 4 lines of the Abstract and column 2, lines 23-29). Rudder teaches to separate oil and other volatile products mixed with groundwater in a gravity phase separating system and obtaining of mixture from a recovery well (Abstract and column 3, lines 20-68). It would have been obvious to one of ordinary skill in the art to have utilized the Petersen system and method for use with a recovery well, as taught by Rudder, because such wells efficiently and quickly collect the mixture to be separated from plumes of contaminated ground and

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ground water, and also allow adjustment of flow rate of the mixture over a widely variable capacity.

For claims 2, 8 and 14, there are plural connected storage tanks (column 22, lines 38-54).

For claims 4, 10 and 15, the water is routed through filters (column 28, lines 42-50) en-route to sanitary sewers (last 5 lines of the Abstract).

For claims 6, 12 and 17, flow from separate light phases is generally from higher to lower elevations where separated light phases are released from tanks 11 and 51 (figures 3 and 8, column 11, line 67-column 12, line 3, column 13, lines 9-35, etc.).

Claims 3, 9, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen in view of Rudder patent 5,173,092 and further in view of Fritz patent 5,979,012.

Claims 3, 9 and 19 differ from Petersen in requiring the hoses to be "long" and coiled". Fritz teaches vacuum hoses for collecting water mixed with oil product contaminants to be separated and the hoses being relatively long and coiled loosely around hose reels (column 6, lines 26-36 and 55-60). It would have been also obvious to have utilized long, coiled or reeled form of hoses taught by Fritz in the system of Petersen, to allow collection of mixtures from locations more distant from the site where the separation tanks are situated and enhance the portability of system set-up.

Claim 18 requires the filters to include a clay filter, although Petersen does disclose absorption or adsorption type filter media in column 28; clay-based sorbing

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filtering media and other forms of clay are taught by Fritz at column 8, lines 23-34. It would have also been obvious to have utilized such clay media of Fritz since this form of media does not render the discharged waste water more hazardous.

Claims 5,11,16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen in view of Rudder patent 5,173,092 and further in view of Cantrell et al patent 4,139,332. These claims also differ in requiring the vacuum supply to include an internal combustion engine. Cantrell teach such engines (column 1, lines 17-36 and column 4, lines 28-44, etc. It would have also been obvious to have incorporated such internal combustion engine drive to collect the mixtures of Petersen, since they can be fueled by natural gas , which is more readily available and more economical than electricity in remote areas.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wells patent 4,844,797 is of interest with respect to vacuum means located in recovery wells or intermediate recovery wells and means for separating gathered liquid product and water mixtures and the wells.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

June 22, 2006


JOSEPH DRODGE
PRIMARY EXAMINER